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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,700	04/30/2001	Brent D. Brookler	11220-003	2640

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EXAMINER

VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/845,700

**Applicant(s)**

BROOKLER ET AL.

**Examiner**

John Van Bramer

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- a. (52) Markup language translation layer
- b. (84) User session stream
- c. (86) User profile stream
- d. (88) User response stream

The original drawings filed on April 30, 2001 do contain these numerical identifiers along with their textual descriptions, which are referenced throughout the specification. However, the corrected drawings filed on August 2, 2001 do not contain these reference items and as such require amendment.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

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any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: On page 7, line 5 of the specification; the “publishing engine” is identified as (12). This appears to be a typographical error since every other reference to the “publishing engine” throughout the specification uses (14) as its identifier. Additionally, (12) is referenced as a “survey input database” throughout the specification and appears to be a separate part of the claimed invention based upon the drawings.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by West et al. (U.S. Patent Number: 6,175,833).

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Claim 1: West discloses a process for conducting an electronic survey, said process comprising the steps of:

- a. Creating an electronic survey. (Col 4, lines 43-49)
- b. Sending said survey to a plurality of users having different types of electronic interface devices. (Col 3, lines 49-53; Col 4, lines 9-16; and Col 6, lines 28-38)
- c. Accessing user data generated in response to said survey using at least one type of electronic interface device. (Col 6, lines 39-54)

Claim 2: West discloses the process of claim 1 further comprising accessing said user data using plurality of types of electronic interface devices. (Col 3, lines 55-63)

Claim 3: West discloses the process of claim 1 further comprising storing said survey on a first database and receiving said user data on a second database. (Col 4, lines 50-62)

Claim 4: West discloses the process of claim 3 further comprising analyzing said user data prior to said step of accessing. (Col 8, line 53 through Col 9 line 43)

Claim 5: West discloses the process of claim 4 wherein said step of analyzing comprises analyzing said user data in accordance with criteria established by a creator of said survey. (Col 4, lines 43-62 and Col 5 line 43 through Col 6, line 3)

Claim 6: West discloses a process for conducting an electronic survey, said process comprising the steps of:

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- a. Creating a survey by writing the survey materials and placing the survey materials into a first database as survey input data. (Col 4, lines 43-49)
- b. Wrapping each element of said survey input data with markup language tags defined in a schema to provide a collection of data in a markup language-wrapped document. (Col 3 line 55 through Col 4, line 8; Col 4, lines 43-49; Col 5, lines 23-27; and Col 6, lines 14-27)
- c. Publishing said markup language-wrapped document, wherein said survey input data are in the form of a collection of markup language-wrapped data, by parsing said markup language-wrapped data against said schema. (Col 6, lines 28-54)
- d. Sending the parsed, markup language-wrapped data in output defined style sheets to a plurality of types of interface devices via suitable communications networks. (Col 6, lines 28-64)
- e. Receiving survey response data in a second database via suitable communications networks. (Col 6, lines 28-64)
- f. Publishing the received data by wrapping the received data in a desired markup language document. (Col 6, lines 28-54)

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Claim 7: West discloses the process of claim 6 further comprising accessing said received data using at least one type of electronic interface device. (Col 6, lines 28-64)

Claim 8: West discloses the process of claim 6 further comprising accessing said user data using plurality of types of electronic interface devices. (Col 6, lines 28-64)

Claim 9: West discloses the process of claim 6 wherein said step of accessing is performed by a creator of said survey. (Col 6, lines 54-64)

Claim 10: West discloses the process of claim 6 further comprising analyzing the received data prior to publishing the received data. (Col 8, line 31 through Col 9, line 36)

Claim 11: West discloses the process of claim 6 wherein said markup language-wrapped data are further validated against a predefined schema. (Col 8, line 31 through Col 9, line 36)

Claim 12: West discloses the process of claim 6 wherein said received data is further parsed against a second schema to enable the analyzed data to be accessed by at least one interface device type specified by a creator of the survey. (Col 4, lines 16-27)

Claim 13: West discloses the process of claim 6 wherein said markup language is extensible markup language. (Col 3, line 64 through Col 4, line 8)

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Claim 14: West discloses an apparatus for conducting an electronic survey, said apparatus comprising:

- a. A first database for storing an electronic survey comprised of survey input data. (Col 4, lines 43-62)
- b. A publishing engine for sending said survey to a plurality of users having different types of electronic interface devices via suitable communications networks. (Col 6, lines 28-54)
- c. A second database for receiving survey response data from said electronic interface devices via suitable communications networks, wherein said publishing engine further publishes said survey response data for access by at least one type of electronic interface device. (Col 6, lines 28-62 and Col 9, lines 62-67)

Claim 15: West discloses the apparatus of claim 14 further comprising means for analyzing said response data prior to publishing by said publishing engine. (Col 6, lines 28-54)

Claim 16: West discloses the apparatus of claim 15 wherein said analyzing means analyzes said user data in accordance with criteria established by a creator of said survey. (Col 4, lines 43-62 and Col 5, line 43 through Col 6, line 3)

Claim 17: West discloses the apparatus of claim 14 wherein, prior to sending said survey to a plurality of users, said publishing engine wraps each element of said



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survey input data with markup language tags defined in a schema to provide a collection of data in a markup language-wrapped document. (Col 6, lines 28-38 and Col 7, line 61 through Col 8, line 11)

Claim 18: West discloses the apparatus of claim 14 wherein, prior to publishing said survey response data, said publishing engine wraps each element of said survey response data with markup language tags defined in a schema to provide a collection of data in a markup language-wrapped document. (Col 6, lines 28-38 and Col 7, line 61 through Col 8, line 11)

Claim 19: West discloses the apparatus of claim 17 wherein said markup language is extensible markup language. (Col 3, line 55 through Col 4, line 8)

Claim 20: West discloses the apparatus of claim 18 wherein said markup language is extensible markup language. (Col 3, line 55 through Col 4, line 8)

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Eggleston et al. (U.S. Patent Number: 6,061,660) discloses a method for incentive and award fulfillment that incorporates surveys.
- b. Matyas, Jr. (U.S. Patent Number: 6,102,287) discloses a similar method for using surveys in an electronic payment system environment.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 9am - 5pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*JVB*

jvb  
November 17, 2005



**JAMES W. MYHRE  
PRIMARY EXAMINER**